

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:	17-CR-475(WFK)
	:	
	:	
-against-	:	United States Courthouse
	:	Brooklyn, New York
	:	
	:	
DILSHOD KHUSANOV,	:	Wednesday, August 10, 2022
	:	12:00 pm.
Defendant.	:	
	:	
	:	

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TRANSCRIPT OF CRIMINAL CAUSE FOR SENTENCING
BEFORE THE HONORABLE WILLIAM F. KUNTZ, II
UNITED STATES DISTRICT COURT JUDGE

A P P E A R A N C E S:

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Proceedings recorded by mechanical stenography, transcript
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Proceedings

2

1 THE COURTROOM DEPUTY: Criminal cause for a
2 sentencing, 17-CR-475, USA v. Khusanov.

3 Counsel, please state your appearances for the
4 record starting with the Government.

5 MR. HAGGANS: Good afternoon, your Honor. Matthew
6 Haggans and Jonathan Algor for the United States.

7 THE COURT: Good afternoon.

8 Are you both fully vacc'd and boosted?

9 MR. HAGGANS: Yes, your Honor.

10 THE COURT: You may remove your masks and be seated.
11 And with you at counsel table is?

12 THE PROBATION OFFICER: Shayna Bryant, U.S.
13 Probation. Good afternoon, your Honor.

14 THE COURT: Good afternoon.

15 Are you fully vacc'd and boosted?

16 THE PROBATION OFFICER: Yes, I am.

17 THE COURT: You may remove your mask if you wish --
18 you don't have to do it -- and be seated.

19 MR. LEVITT: Good afternoon, your Honor. Richard
20 Levitt and Deborah Colson on behalf of Dilshod Khusanov, who
21 is standing to my right.

22 I am fully vaccinated and whatever, your Honor.

23 THE COURT: You may remove your mask, your robe,
24 whatever else, and be seated. Thank you.

25 MR. LEVITT: I think I'll limit it to the mask.

Proceedings

3

1 THE COURT: Okay. Is your client fully vacc'd and
2 boosted, sir?

3 MR. LEVITT: He only has one vaccination.

4 THE COURT: Then he has to keep his mask on. He
5 should probably pull it up over his nose just because of our
6 protocols. Sorry about that.

7 And are you fully vacc'd and boosted, ma'am?

8 MS. COLSON: I am, your Honor.

9 THE COURT: You may remove your mask if you wish.

10 MS. COLSON: Thank you.

11 THE COURT: Thank you. You may be seated.

12 And ladies and gentlemen of the public, you may be
13 seated as well.

14 Are there any other counsel who wish to identify
15 themselves and appear in this action?

16 Hearing none, we will proceed.

17 Good afternoon, Mr. Khusanov.

18 THE DEFENDANT: Good afternoon.

19 THE COURT: I'm going to ask you to pull that
20 microphone close to you, make sure the light's on. You can
21 share the one with your counsel if you prefer, just make sure
22 that green light is on, okay?

23 You can pull it to you, sir. It will swivel.

24 Mr. Khusanov, have you had an opportunity to review
25 carefully the presentence investigation report filed on

Proceedings

4

1 April 5 of 2022 in your case?

2 THE DEFENDANT: Yes, I have.

3 THE COURT: And have you reviewed that report with
4 your counsel?

5 THE DEFENDANT: Yes, I did.

6 THE COURT: And defense counsel's objections, have
7 you reviewed those, the objections to the presentence
8 investigation report filed on April 19 of 2022?

9 THE DEFENDANT: Yes.

10 THE COURT: And have you read the addendum to the
11 presentence investigation report filed on July 7 of 2022?

12 THE DEFENDANT: Yes.

13 THE COURT: And have you read defense counsel's
14 sentencing memorandum filed on August 2 of 2022, which
15 includes the following documents: Copies of your Bureau of
16 Prisons educational certificates as well as a psychological
17 services group certificate and group participation report; and
18 two letters you wrote, one of which is addressed to this
19 Court, and numerous letters of support from your family and
20 community.

21 Have you read those items?

22 THE DEFENDANT: Yes, I have.

23 THE COURT: Now, the Government's sentencing
24 memorandum filed on August 7 of 2022, have you read that, sir?

25 THE DEFENDANT: Yes, I have.

Proceedings

5

1 THE COURT: Now, in addition to those materials, my
2 files reflect copies of the following documents: The
3 indictment filed on August 29 of 2017 and the plea agreement
4 filed on October 21 of 2021.

5 Are there any other documents, beginning with the
6 Government, either counsel, would like to mention with
7 particularity at this time?

8 MR. HAGGANS: Not from the Government, your Honor.

9 THE COURT: Defense counsel?

10 MR. LEVITT: No, your Honor.

11 THE COURT: Mr. Khusanov, do you feel prepared to go
12 forward with your sentencing today, sir?

13 THE DEFENDANT: Yes, I do.

14 THE COURT: Mr. Khusanov, you have the right to
15 address this Court before I impose sentence. I will give you
16 the opportunity to do so in just a few minutes and you should
17 feel free to say anything you think appropriate at that time
18 before I finalize my judgment in your case.

19 Do you understand?

20 THE DEFENDANT: Yes, I know.

21 THE COURT: Are you satisfied with your counsel's
22 representation?

23 THE DEFENDANT: Yes, I am.

24 THE COURT: Do you feel you've received the
25 effective assistance of counsel?

Proceedings

6

1 THE DEFENDANT: Yes.

2 THE COURT: If you do not believe you've received
3 the effective assistance of counsel, you may raise a claim of
4 ineffective assistance of counsel at an appropriate time and
5 in an appropriate forum; do you understand?

6 THE DEFENDANT: Yes, I do.

7 THE COURT: The United States Code sets forth the
8 following sentencing parameters for attempt to provide
9 material support to a foreign terrorist organization, in
10 violation of Title 18, United States Code, Section
11 2339B(a)(1): A statutory maximum imprisonment term of 15
12 years; a statutory maximum term of supervised release of life;
13 a statutory probation term of not less than one year nor more
14 than five years, and that's the statutory maximum imprisonment
15 term of up to 15 years; a maximum fine of \$250,000; a
16 mandatory special assessment of \$100 per count, which I'm
17 required to impose in all cases.

18 This Court must also consider the sentencing
19 parameters set by the United States Sentencing Guidelines.
20 Here, the applicable guideline for attempt to provide material
21 support to a foreign terrorist organization, in violation of
22 Title 18, United States Code, Section 2339B(a)(1) is USSG
23 Section 2M, as in Mary, 5.3A, which provides a base offense
24 level of 26.

25 Because the instant offense involved the provision

1 of material support with the intent, knowledge, or reason to
2 believe such support would be used to commit or to assist in
3 the commission of a violent act, a two-level increase is
4 warranted pursuant to USSG Section 2M5.3B1E.

5 A 12-level increase is also warranted pursuant to
6 USSG Section 3A1.4A because the instant offense is a felony
7 that involved or was intended to promote a federal crime of
8 terrorism. By reference, in the Section 3A1.4 application,
9 notes to Title 18, United States Code, Section 2332B(g)(5), a
10 federal crime of terrorism is defined as an offense that is:
11 A, calculated to influence or to effect the conduct of
12 government by intimidation or coercion or to retaliate against
13 government conduct; and, B, is a violation of one or more of
14 several enumerated criminal statutes, including Title 18,
15 United States Code, Section 2339B, relating to providing
16 material support to a terrorist organization.

17 A two-level reduction is also warranted pursuant to
18 USSG Section 3E, as in Edward, 1.1A, because the Defendant has
19 clearly demonstrated acceptance of responsibility for the
20 offense.

21 A further one-level reduction is warranted pursuant
22 to USSG Section 3E1.1B because the Government was notified in
23 a timely manner of the Defendant's intention to plead guilty.
24 Accordingly, the adjusted offense level is 37.

25 The Defendant has no prior convictions, which

Proceedings

8

1 results in a criminal history score of zero. According to the
2 sentencing table in USSG, Chapter 5, Part A, a criminal
3 history score of zero establishes a criminal history category
4 of I.

5 However, pursuant to USSG Section 3A1.4B, the
6 criminal history category in this case is VI because the
7 instant offense involved was or was intended to promote a
8 federal crime of terrorism. For an offense level of 37 and a
9 criminal history category of VI, the sentencing guidelines,
10 suggest a term of incarceration of 360 months to life.
11 However, the statutorily authorized maximum sentence is less
12 than the maximum of the applicable guideline range; therefore,
13 the restricted guideline range is 180 months pursuant to USSG
14 Section 5G1.2B.

15 The guidelines further suggest as follows: A term
16 of supervised release of one year to life and a fine of
17 between \$20,000 and \$200,000.

18 Pursuant to paragraph five of the plea agreement,
19 you also agreed to the entry of a stipulated judicial order of
20 removal at the time of sentencing under Title 8, United States
21 Code, Sections 1228(c)(5) and 1227.

22 Probation recommends a sentence of 15 years in the
23 custody of the Attorney General, two years of supervised
24 release with special conditions, and a \$100 special
25 assessment. In support of its recommendation, Probation cites

Proceedings

9

1 the seriousness of the offense as well as the Defendant's
2 efforts to conceal the sources and recipients of the funds and
3 to avoid detection by law enforcement officers.

4 The defense asks the Court to suggest to the
5 Government that it agree to a lower sentence and that a lower
6 sentence be imposed. Defense counsel also requests the Court
7 recommend the Defendant be housed at the federal correctional
8 complex in Coleman, C-O-L-E-M-A-N, Florida, the closest
9 facility to his wife, children, and in-laws.

10 In support of its request, defense counsel
11 emphasizes the Defendant's regret for his actions as well as
12 the well-documented harsh conditions the Defendant has
13 experienced at the MDC; conditions including the 2019 blackout
14 and the conditions resulting from the COVID-19 pandemic.

15 Despite these conditions, defense counsel notes that
16 the Defendant received no disciplinary infractions and
17 completed several courses.

18 Finally, defense counsel emphasizes the Defendant's
19 wife and children's reliance upon him, particularly noting the
20 care Defendant provided to his autistic son prior to his
21 arrest.

22 The Government recommends the Court impose the
23 sentence agreed upon in Defendant's Rule 11(c)(1)(C) plea
24 agreement, which is 132 months of incarceration followed by
25 lifetime supervised release and the entry of the judicial

Proceedings

10

1 order of removal.

2 In support, the Government emphasizes the
3 seriousness of the Defendant's conduct in providing support to
4 an individual whom he knew would travel to Syria to fight in
5 support of a foreign terrorist organization as well as the
6 Defendant's prior agreement to the sentence in connection with
7 his guilty plea.

8 Counsel, beginning with the Government, am I missing
9 anything pertinent to today's proceedings?

10 MR. HAGGANS: No, your Honor.

11 THE COURT: Defense counsel, am I missing anything
12 pertinent to today's proceedings?

13 MR. LEVITT: No, your Honor.

14 THE COURT: Are there any objections either counsel
15 wishes to raise other than those that have been submitted to
16 the Court in writing?

17 Government?

18 MR. HAGGANS: No, your Honor.

19 THE COURT: Defense counsel?

20 MR. LEVITT: No, Judge.

21 THE COURT: That being the case, I will now turn it
22 over to defense counsel.

23 MR. LEVITT: Thank you, Judge.

24 We don't have anything to add additional to what we
25 have included within the papers, which I think were thorough

Proceedings

11

1 on both sides of these tables. We did have and do have
2 certain objections to specific factual statements within the
3 PSR which are noted in our letter to your Honor.

4 THE COURT: Yes, sir. I've reviewed those.

5 MR. LEVITT: So, I have nothing else to add prior to
6 the imposition of sentence.

7 THE COURT: Thank you, sir.

8 Government counsel?

9 MR. HAGGANS: We won't belabor the point, your
10 Honor. We know that the Court is very familiar with the
11 underlying facts of this investigation from presiding over a
12 related trial.

13 We set forth in our papers and in the plea agreement
14 between the parties what we believe is the appropriate
15 sentence in this case and we request that the Court impose
16 that sentence as respecting the bargain that the parties made
17 at the time of the plea and that the Defendant accepted at
18 that time as well.

19 THE COURT: Thank you, counsel.

20 Probation, do you have anything to add?

21 THE PROBATION OFFICER: The probation department
22 will rely on its response outlined in the addendum and we have
23 nothing further to add at this time. Thank you.

24 THE COURT: Thank you.

25 Mr. Khusanov, what, if anything, would you like to

Proceedings

12

1 say to the Court at this time?

2 THE DEFENDANT: No, thank you. I've already said in
3 my letter to the Court.

4 THE COURT: Thank you.

5 The Court has this to say, Mr. Khusanov: Perfect
6 justice in this case would involve a power that neither I nor
7 any judge nor any human being, for that matter, has in his or
8 her hands. It is challenging and humbling to sit here as the
9 Court and to pass sentence on a fellow human being. This case
10 impacts your community. This case impacts your family.
11 Ultimately, of course, this case impacts you. Ultimately,
12 this case is about you, about what you did that brought us
13 here today, which is a day of sadness and a day of tragedy.

14 On August 29 of 2017, the United States grand jury
15 returned a two-count indictment charging the Defendant with
16 conspiracy to provide material support to a foreign terrorist
17 organization, in violation of Title 18 of the United States
18 Code, Section 2339B(a)(1), and an attempt to provide material
19 support to a foreign terrorist organization, in violation of
20 18 U.S.C. Section 2339B(a)(1).

21 Specifically, the Defendant was charged with
22 conspiring and attempting to provide financial support for
23 individuals to travel to the Middle East to join the Islamic
24 State of Iraq and al-Sham, known as ISIS, and the al-Nusrah,
25 N-U-S-R-A-H, Front, which at all relevant times have been

1 designated by the Secretary of State as a foreign terrorist
2 organization.

3 On October 18 of 2021, the Defendant pled guilty to
4 Count Two of the indictment, pursuant to a Rule 11(c)(1)(C)
5 plea agreement. At the conclusion of the change of plea
6 hearing, the Court accepted the Defendant's plea of guilty and
7 the plea agreement.

8 Under paragraph two of the plea agreement, the
9 Government and the Defendant agreed to a sentence of 132
10 months of incarceration to be followed by a lifetime term of
11 supervised release. The plea agreement further states the
12 Defendant agrees to the entry of a stipulated judicial order
13 of removal to be signed by the Court at the time of sentencing
14 pursuant to 8 U.S.C. Sections 1228(c)(5) and 1227.

15 The legal standard is as follows.

16 The parties have agreed that the specified
17 imprisonment and supervised release terms are not based on the
18 sentencing guidelines, according to the plea agreement
19 paragraph two. This Court must, however, consider the
20 guidelines, nevertheless, in deciding whether to accept the
21 plea agreement and to enter sentence accordingly under United
22 States Sentencing Guidelines Section 6B1.2.

23 Under USSG Section 6B1.2, the Court may accept an
24 agreed-upon sentence under Federal Rule of Criminal Procedure
25 Rule 11(c)(1)(C) if the agreed sentence is within the

1 applicable guideline range, Section 6B1.2(c)(1). The Court
2 may also accept the sentence if the agreed-upon sentence falls
3 below the applicable guideline range and the Court provides
4 justifiable reasons for the departure from the sentencing
5 range and sets forth those reasons with specificity in the
6 statement of reasons form as provided by Section 6B1.3(c)(2).

7 Once the Court accepts the plea agreement, the Court
8 is bound to the specific sentence agreed upon by the parties
9 of the plea agreement pursuant to Federal Rule of Criminal
10 Procedure 11(c)(1)(C).

11 A recommendation or request binds the Court once the
12 Court accepts the plea agreement. Rejection of the plea
13 agreement or deviation from the agreed-upon sentence, however,
14 permits the Defendant to withdraw his guilty plea under
15 Federal Rule of Criminal Procedure 11(c)(5).

16 18 U.S.C. Section 3553 outlines the procedures for
17 imposing sentence in a criminal case. The starting point and
18 initial benchmark in evaluating a criminal sentence is the
19 guidelines sentencing range as set forth in *Gall v. United*
20 *States*, 552 U.S. 38 at Page 49, decided by the Supreme Court
21 in 2007.

22 If and when a district court chooses to impose a
23 sentence outside the sentencing guideline range, the Court
24 shall state in open court the reasons for its imposition of a
25 particular sentence and the specific reason for the imposition

1 of a sentence different from that described in the guidelines
2 under 18 U.S.C. Section 3553(c)(2). The Court must also state
3 with specificity its reasons for so departing or varying in a
4 statement of reasons form.

5 Here, as explained below, the applicable guidelines
6 sentencing range for the Defendant's offense is 180 months of
7 imprisonment. The agreed-upon sentence of 132 months of
8 incarceration falls below that range. The Court, thus, now
9 provides a statement of justifiable reasons and a simple
10 fact-specific statement explaining why the guidelines range in
11 this case does not account for a specific factor or factors
12 under 3553(a), as set forth by my late lamented colleague Jack
13 Weinstein in *United States v. Davis*, 8-CR-332, 2010 WL 1221709
14 at *1, decided here in the Eastern District on March 29 of
15 2010.

16 The analysis begins with the history and
17 characteristics of the Defendant and the nature and
18 circumstances of the offense. The first 3553(a) factor
19 requires this Court to evaluate the nature and circumstances
20 of the offense and the history and characteristics of the
21 Defendant.

22 The Defendant was born on September 3, 1985, in
23 Tashkent, Uzbekistan, to Takhir Khusanov and Valida Khusanov.
24 Defendant's parents retired and reside in Tashkent. Defendant
25 also has two sisters who reside there and with whom he is

Proceedings

16

1 reportedly in close relationship. The Defendant's father and
2 sisters, however, are unaware of his conviction. His mother
3 is aware of his conviction and remains supportive.

4 Defendant was raised by his parents in a middle
5 income household and reported a normal childhood and good,
6 solid relationships with his siblings and parents. Defendant
7 reported no abuse in the household.

8 On July 2013, the Defendant married Aziza,
9 A-Z-I-Z-A, second name E-R-K-I-N-O-V-A in Kings County, New
10 York. The Defendant and his wife have three children, one of
11 whom has autism spectrum disorder. His wife currently resides
12 in Florida and is unemployed. She is aware of Defendant's
13 conviction and remains supportive of him.

14 Defendant moved from Tashkent, Uzbekistan, to Troy,
15 Alabama, in December of 2008 on a student visa to attend
16 school. He later moved to New York, New York, to live with
17 friends and an aunt. The Defendant is a permanent United
18 States resident. The Defendant returned to Uzbekistan for a
19 short period in 2011 before returning to New York.

20 In May 2014, the Defendant and his wife moved to
21 Villa Park, Illinois, where he resided prior to his arrest for
22 the instant offense.

23 In 2008, the Defendant graduated from the Tashkent,
24 T-A-S-H-K-E-N-T, State University of World Languages with a
25 degree in world languages.

1 In January 2009, the Defendant was enrolled in a
2 Master of Business Administration program for several weeks at
3 Troy University in Troy, Alabama. He later left the program
4 due to the language challenges.

5 From 2009 to 2010, the Defendant completed an
6 English language program at Bluedata, B-L-U-E-D-A-T-A,
7 International Institute in New York, New York.

8 From August 2015 until his arrest in the instant
9 offense in 2017, the Defendant was employed driving trucks for
10 SDE Logistics.

11 The Defendant has no prior convictions.

12 In 2019, the Defendant suffered a knee injury while
13 in custody and reported the inability to fully extend his
14 knee. The Defendant's knee injury led to a cyst abscess on
15 his right knee in November 2021. The Defendant has also
16 experienced dental issues while in custody and has had several
17 teeth pulled. The Defendant has no history of any mental or
18 emotional health issues. Defendant has no history of
19 substance or alcohol abuse.

20 With respect to the nature and circumstances of the
21 offense, the investigation in this case began in August of
22 2014, when agents with the FBI Joint Terrorism Task Force
23 interviewed Mr. Abdurasul A-B-D-U-R-A-S-U-L, Juraboev,
24 J-U-R-A-B-O-E-V, a defendant in the related case, following
25 the agent's discovery of social media posts pledging support

1 for ISIS.

2 The investigation revealed that Juraboev and another
3 defendant, Saidakhmetov, A-K-H-R-O-R Saidakhmetov,
4 S-A-I-D-A-K-H-M-E-T-O-V, discussed engaging in terrorist acts
5 in the United States and traveling to Syria to fight with
6 ISIS. The investigation also revealed the involvement of a
7 third defendant in United States v. Juraboev, Abror,
8 A-B-R-O-R, Habibov, H-A-B-I-B-O-V, who employed Saidakhmetov,
9 helped to purchase and plan Saidakhmetov's plane ticket to
10 Turkey and subsequent travel to Syria, and worked with two
11 other Defendants in the Juraboev case, Kasimov and Zakirov,
12 Akmal Zakirov, A-K-M-A-L Z-A-K-I-R-O-B, to raise money for
13 Saidakhmetov's actions in Syria.

14 Throughout late 2014 and early 2015, Juraboev and
15 Saidakhmetov communicated with ISIS representatives and, with
16 the assistance of Habibov, planned to travel to Syria to fight
17 with ISIS. The FBI Joint Terrorism Task Force investigation
18 revealed the Defendant worked with others to fund
19 Saidakhmetov's efforts to travel to Syria to join ISIS and to
20 raise money from others intended to be used for other
21 individuals to fight on behalf of ISIS in Syria.

22 Toll records reveal the Defendant was in contact
23 with Zakirov and others to discuss providing money and
24 assisting in raising money from others to fund Saidakhmetov's
25 travels. The Defendant transferred \$100 from his bank account

1 on February 17, 2015, to Zakirov. The Defendant facilitated
2 the donation of funds in support of Saidakhmetov's travel from
3 two additional individuals.

4 Following the February 2015 arrest of Saidakhmetov
5 and Habibov, intercepted communications reveal the Defendant
6 had discussed manufacturing a cover story in the event any
7 confrontation with law enforcement authorities arose. The
8 Defendant also changed his phone number the day after the
9 arrest and subsequently informed law enforcement he had
10 stopped using the telephone number after the arrest because he
11 did not know what they were doing. The Defendant was arrested
12 on August 31 of 2017 at his residence in Illinois.

13 The second 3553(a) factor instructs this Court to
14 consider the need for the sentence imposed: A, to reflect the
15 seriousness of the offense, to promote respect for the law, to
16 provide just punishment for the offense; B, to afford adequate
17 deterrence to criminal conduct; C, to protect the public from
18 further crimes of the Defendant; and, D, to provide the
19 Defendant with needed educational or vocational training,
20 medical care, or other correctional treatment in the most
21 effective manner. 3553(a)(2) so provides.

22 The instant sentence recognizes the seriousness of
23 the Defendant's offense, which involved support for a
24 designated foreign terrorist organization and implicates
25 national security concerns. The Court's sentence will deter

1 others from engaging in similar acts and justly punishes the
2 Defendant for his offense.

3 With respect to the kinds of sentence available, the
4 third 3553(a) factor requires the Court to detail the kinds of
5 sentence available to this Defendant. The Defendant pled
6 guilty to one count of attempt to provide material support to
7 foreign terrorist organizations, in violation of
8 18 U.S.C. 2339B(a)(1). For that offense, the Defendant faces
9 a maximum term of imprisonment of 15 years, the maximum term
10 applicable at the time of the Defendant's conduct.

11 The Court may impose a term of supervised release of
12 any years up to life.

13 A term of not less than one nor more than five years
14 of probation may be imposed because the offense is a Class C
15 felony, 18 U.S.C. Section 3561(c)(1). If probation were to be
16 imposed, the fine, restitution, and community service would
17 have to be imposed as a condition of probation unless the
18 Court found that extraordinary circumstances existed that
19 would make such a condition plainly unreasonable.

20 The Defendant also faces a maximum fine of \$250,000
21 under 18 U.S.C. Section 3571(b). Probation notes the
22 Defendant does not appear to be able to pay such fine.

23 The fourth 3553(a) factor requires the Court to
24 consider and to discuss the kinds of sentence and the
25 sentencing range established for the applicable category of

1 offense committed by the Defendant as set forth in the
2 guidelines. The typical guideline for 18 U.S.C. 2339B9(a)(1)
3 offense is United States Sentencing Guidelines, Section 2M, as
4 in Mary, 5.3A, which provides for the base offense level 26.

5 Because the instant offense involved the provision
6 of material support with intent, knowledge, or reason to
7 believe such support would be used to commit or to assist in
8 the commission of a violent act, a two-level increase is
9 warranted under USSG Section 2M5.3B(1)(e).

10 As the instant offense is a felony that was involved
11 or was intended to promote a federal crime of terrorism, a
12 12-level increase is applicable, pursuant to USSG Section
13 3A1.4. By reference to the Section 3A1.4 application notes to
14 18 U.S.C. Section 2332B(g)(5), a federal crime of terrorism is
15 defined as an offense that: A, is calculated to influence or
16 to affect the conduct of government by intimidation or
17 coercion or to retaliate against government conduct; and, B,
18 is a violation of 18 U.S.C. Section 2339B relating to
19 providing material support to terrorist organizations.

20 A two-level reduction is warranted pursuant to USSG
21 Section 3E, as an Edward, 1.1 because the Defendant has
22 clearly demonstrated acceptance of responsibility for the
23 offense.

24 A further one-level reduction applies because the
25 Defendant notified the Government in a timely manner of his

1 intention to enter a plea of guilty.

2 Therefore, the Defendant's total adjusted offense
3 level, as I previously noted, is 37.

4 The Defendant has no prior convictions, resulting in
5 a criminal history score of zero; thus, according to the
6 sentencing table, a criminal history score of zero establishes
7 a criminal history category of I. However, under USSG Section
8 3A1.4(b), the criminal history category in this case is VI
9 because the instant offense involved was or intended to
10 promote a federal crime of terrorism.

11 An offense level 37 with a criminal history category
12 of VI would result in a guidelines custody range of 360 months
13 to life. However, because the statutorily authorized maximum
14 sentence is less than the maximum of the applicable guidelines
15 range, the restricted guidelines range is 180 months under
16 USSG Section 5G1.1(a).

17 Probation, as we've heard, recommends a sentence of
18 180 months of incarceration to be followed by two years of
19 supervised release with special conditions.

20 The Government recommends the Court impose the
21 sentence agreed upon in the Defendant's Rule 11(c)(1)(C) plea
22 agreement, which is 132 months of incarceration to be followed
23 by lifetime supervised release.

24 Defense counsel asks this Court to suggest to the
25 Government that it agree to a lower sentence and that a lower

1 sentence be imposed. The Court declines to make that
2 suggestion. Federal Rule of Criminal Procedure 11(c)
3 absolutely precludes Court involvement in plea negotiations.

4 The fifth 3553(a) factor, which requires the Court
5 to evaluate any pertinent policy statement issued by the
6 Sentencing Commission, 18 U.S.C. Section 3553(a)(5) does not
7 apply here with respect to the Defendant's criminal conduct.

8 The sixth 3553(a) factor requires this Court to
9 consider the need to avoid unwarranted sentence disparities
10 among defendants with similar records who have been found
11 guilty of similar conduct.

12 This case arises from the same factual circumstances
13 of the related cases, including United States v. Juraboev,
14 19-CR-95. And in that action, Juraboev pled guilty to one
15 count of conspiracy to provide material support to a foreign
16 terrorist organization, in violation of 18 U.S.C. 2339B(a)(1),
17 and was sentenced by this Court on October 27, 2017, to 180
18 months of incarceration with no term of supervised release to
19 follow.

20 Defendant Saidakhmetov pled guilty to one count of
21 conspiracy to provide material support to a foreign terrorist
22 organization, in violation of 18 U.S.C. Section 2339B(a)(1),
23 and was sentenced to this Court on December 20 of 2017 to 180
24 months of incarceration with no term of supervision to follow.

25 Defendant Rakhmatov pled guilty to one count of

1 conspiracy to provide material support to a foreign terrorist
2 organization, in violation of 18 U.S.C. Section 2339B(a)(1),
3 and was sentenced by this Court on January 14 of 2021 to 150
4 months of incarceration followed by a lifetime of supervised
5 release with special conditions.

6 Defendant Kasimov was convicted at the trial by a
7 jury of his peers on Counts One and Two of the third
8 superseding indictment, charging him with conspiracy and
9 attempt to provide material support to a foreign terrorist
10 organization. Defendant Kasimov was sentenced by this Court
11 on June 3, 2022, to 180 months of incarceration with ten years
12 of supervised release with special conditions.

13 On March 16, 2018, Defendant Zakirov pled guilty to
14 conspiracy to provide material support to a foreign terrorist
15 organization and attempt to provide material support to a
16 foreign terrorist organization, violations of
17 18 U.S.C. Section 2339B(a)(1), and was sentenced by this Court
18 on July 26, 2022, to time served, approximately 102 months of
19 incarceration, followed by two years of supervised release
20 with special conditions.

21 For the reasons stated in this memorandum and order
22 and considering the other six 3553(a) factors, this Court's
23 sentence in this case avoids unwarranted sentence disparities.

24 The final, seventh, 3553(a) factor requires this
25 Court to touch upon the need to provide restitution to any

Proceedings

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1 victims of the offense. That factor does not apply here.

2 The Court, therefore, accepts the parties' Rule
3 11(c)(1)(C) plea agreement and sentences the Defendant to 132
4 months of incarceration followed by lifetime supervised
5 release.

6 The Court will now sign and enter the stipulated
7 judicial order, which is going to be handed up as removal
8 submitted by the parties at the time of sentencing. That will
9 be Court Exhibit 1 in evidence.

10 The Court will also order the Defendant to pay the
11 \$100 mandatory special assessment I'm required to impose, in
12 all caps, but the Court does not impose a fine because the
13 Defendant does not have the ability to pay.

14 This sentence is consistent with and sufficient but
15 not greater than that necessary to accomplish the purposes of
16 3553. The Court also expressly adopts the factual findings of
17 the presentence investigation report and any addenda thereto,
18 barring any errors contained therein and to the extent they
19 are not inconsistent with the Court's sentence and now directs
20 the probation department to slowly read those provisions into
21 the record.

22 THE PROBATION OFFICER: The special conditions of
23 supervised...

24 May I proceed?

25 THE COURT: Yes, you may. You should address the

Proceedings

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1 Court. I'll let you know when you can go forward.

2 Go ahead.

3 THE PROBATION OFFICER: The special conditions of
4 supervised release are as follows:

5 The Defendant shall cooperate with and abide by all
6 instructions of immigration authorities.

7 And if deported or excluded, the Defendant may not
8 re-enter the United States illegally.

9 THE COURT: Does that complete your report?

10 THE PROBATION OFFICER: This completes the special
11 conditions of supervised release. Thank you, your Honor.

12 THE COURT: The Court adopts those.

13 Do you have the order to hand up?

14 MR. HAGGANS: We do with one exception, which is the
15 Defendant's statement. I provided that to the defense.

16 Is it ready?

17 (Pause in proceedings.)

18 THE COURT: I've been handed what has been marked as
19 Court Exhibit 1 for identification, the order of judicial
20 removal, which requests my signature. Just for good order's
21 sake, since I haven't seen this before, let me -- it's a
22 two-page document. Let me just read it out loud into the
23 record and see if there are any objections to it or anything
24 we need to modify.

25 The order of judicial removal in this case reads as

1 follows: Upon the application of the United States of America
2 by Douglas M. Pravda, J. Matthew Haggans, and Jonathan E.
3 Algor, Assistant United States Attorneys, Eastern District of
4 New York; upon the factual allegations in support of judicial
5 removal; upon the consent of Dilshod Khusanov, the Defendant;
6 and upon all prior proceedings and submissions in this matter;
7 and full consideration having been given to the matter set
8 forth herein, the Court finds:

9 One, the Defendant is not a citizen or national of
10 the United States;

11 Two, the Defendant is a native of Uzbekistan and a
12 citizen of Uzbekistan;

13 Three, the Defendant first entered the United States
14 on or about December 28, 2008, as an F-1 nonimmigrant student
15 at or near John F. Kennedy International Airport in New York;

16 Four, the Defendant adjusted his status to that of a
17 lawful permanent resident on or about December 17 of 2010;

18 Five, at the time of sentencing in the instant
19 criminal proceeding, the Defendant will be convicted in the
20 United States District Court, Eastern District of New York, of
21 one count of attempt to provide material support to a foreign
22 terrorist organization, in violation of 18 U.S.C. Section
23 2339B(6);

24 Six, the maximum sentence for a violation of this
25 statute is 15 years of imprisonment;

1 Seven, the Defendant is, and at sentencing will be,
2 subject to removal from the United States pursuant to Section
3 237(a)(4)(B) of the Immigration and Nationality Act of 1952
4 ("INA"), as amended, as described in INA Section
5 212(a)(3)(B)(i)(I), as an alien who has engaged in terrorist
6 activity as defined in INA Section 212(a)(3)(B)(iv)(VI)(cc),
7 in that he committed an act that he knows, or reasonably
8 should know, affords material support to a designated foreign
9 terrorist organization; to wit, the Islamic State of Iraq and
10 al-Sham ("ISIS") and Al-Nusrah Front ("AMF");

11 Seven, the Defendant has waived his right to notice
12 and to hearing under Section 238[(d)](c) of the INA, 8 U.S.C.
13 Section 1228[(d)](c);

14 Eight, the Defendant has waived the opportunity to
15 pursue any and all forms of relief and protection from
16 removal.

17 Wherefore, it is hereby ordered, pursuant to Section
18 238[(d)](c) of the INA, 8 U.S.C. Section 1228[(d)](c), that
19 the Defendant shall be removed from the United States promptly
20 upon his release from confinement, or, if the Defendant is not
21 sentenced to a term of imprisonment promptly upon his
22 sentencing, and that the Defendant be ordered removed to
23 Uzbekistan.

24 Dated New York, New York, line, 2022, a signature
25 for my line.

Proceedings

29

1 I'm changing New York, New York to Brooklyn, New
2 York.

3 I trust that's acceptable to the parties.

4 MR. LEVITT: Yes, your Honor.

5 MR. HAGGANS: It is, your Honor.

6 THE COURT: I'm dating it today, August 10, 2022.
7 I'm signing it.

8 Motion from the Government to have Court 1 admitted
9 into evidence, please?

10 MR. HAGGANS: The Government so moves, your Honor.

11 THE COURT: Any objection?

12 MR. LEVITT: No, your Honor.

13 THE COURT: It's admitted. Thank you.

14 (Court Exhibit 1 so marked.)

15 THE COURT: With respect to the notice of intent to
16 request judicial removal that was just handed up, do you
17 suggest that that document, together with the Defendant's plea
18 statement in support of judicial removal, be marked as an
19 exhibit, admitted in evidence?

20 I'll ask the Government.

21 MR. HAGGANS: Yes, your Honor.

22 And with respect to the order, the Government
23 requests that that order be docketed.

24 THE COURT: Of course.

25 MR. HAGGANS: Thank you, your Honor.

Proceedings

30

1 THE COURT: So, the notice of intent to request
2 judicial removal, how should we mark that?

3 Should that be Court Exhibit 2?

4 These are documents I'm just being handed now.

5 MR. HAGGANS: The notice could be 2, the concurrence
6 could be 3, the factual allegations could be 4, and the
7 Defendant's statement could be 5, your Honor.

8 THE COURT: Is that acceptable to defense counsel?

9 MR. LEVITT: Yes, your Honor.

10 THE COURT: We will have them so marked and entered
11 in evidence pursuant to the agreement of counsel.

12 You'll take care of that, Ms. Yu.

13 THE COURTROOM DEPUTY: Yes, sure.

14 THE COURT: Thank you very much.

15 (Court Exhibits 2 through 5 so marked.)

16 THE COURT: Is there anything else from the
17 Government by way of motions that we need to address today,
18 outstanding counts, anything like that?

19 MR. HAGGANS: Just a couple of housekeeping matters,
20 your Honor.

21 THE COURT: Yes.

22 MR. HAGGANS: I believe there is one open count on
23 this indictment, which the Government moves to dismiss.

24 THE COURT: Any objection?

25 MR. LEVITT: No, your Honor.

Proceedings

31

1 THE COURT: Motion is granted.

2 MR. HAGGANS: I don't believe there is an underlying
3 indictment, but, out of an abundance of caution, if there is,
4 the Government moves to dismiss that as well.

5 THE COURT: Any objection?

6 MR. LEVITT: No, your Honor.

7 THE COURT: It's granted.

8 MR. HAGGANS: From my tracking, I believe the only
9 open request is the defense's request for a designation, and
10 the Government takes no position on that request.

11 THE COURT: I will make that a part of the judgment,
12 Mr. Levitt. So, that goes into the judgment that will be
13 entered later today. I'm granting that application on the
14 part of the Defendant.

15 MR. LEVITT: Yes, thank you, your Honor.

16 The only other request we would make --

17 THE COURT: I'm going to ask you to pull the
18 microphone a little closer to you, sir.

19 MR. LEVITT: The only other request we would make --
20 and this is, I guess, more for the Government, I can take it
21 up with them -- they had previously seized or been provided
22 voluntarily by Mr. Khusanov two phones and a computer, and
23 he'd like that to be returned.

24 THE COURT: I'll let you take that up with the
25 Government.

Proceedings

32

1 I touched on this earlier, but I'm particularly
2 sensitive to the dictates of Rule 11(c), which state, and I
3 just wanted to put this in hot verba, as it were, in the
4 record from Rule 11(c) of the Federal Rules of Criminal
5 Procedure, to quote it: In general, an attorney for the
6 Government and the Defendant's attorney may discuss and reach
7 a plea agreement. The Court must not participate in these
8 discussions.

9 So, I want to make it very clear. I know you
10 distinguished counsel realize that, but, also, for my
11 distinguished colleagues on the 17th Floor, I want to make it
12 very clear that I have not participated in your plea
13 negotiations. They have been carried out by distinguished
14 counsel and the Court appreciates the effort.

15 And I hope that the Defendant appreciates,
16 Mr. Khusanov, the fine job your counsel has done for you in
17 this case as well as the fine job the Government attorneys
18 have done on behalf off the people of the United States. So,
19 good job all around, including Probation.

20 And I want to thank you all for your patience.

21 Is there anything else we need to address today?

22 MR. HAGGANS: Not from the Government. Thank you,
23 your Honor.

24 MR. LEVITT: One moment, please, your Honor.

25 (Pause in proceedings.)

Proceedings

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1 MR. LEVITT: Nothing else, your Honor.

2 THE COURT: Thank you. We're adjourned. Stay safe,
3 everyone.

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5 (Matter concluded.)

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11 *I (we) certify that the foregoing is a correct transcript*
12 *from the record of proceedings in the above-entitled matter.*

13 /s/ Linda A. Marino August 26, 2022
14 LINDA A. MARINO Date

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